

Serial No. 09/994,092
Amendment Dated January 28, 2005
Reply to Office Action of October 1, 2004

REMARKS/ARGUMENTS

Reexamination of the present application is respectfully requested.

The deposit language on page 18 of the specification is objected to because it is unclear what the amendment is stating. The Examiner states that the amendment does not state where the deposit will be maintained and that lines 5-7 of the amendment appear to contradict the statement at lines 3-5.

The new address for ATCC has been added in a new deposit paragraph. Lines 5-7 have been removed. The new deposit paragraph is believed to be in proper form.

Claim 34 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claim 34 is canceled.

Claims 1, 7, 14 and 29 are objected to because of the following informalities: The phrase "plant is designated variety" should read ---plant is variety---.

Claims 1, 7, 14 and 29 have been amended accordingly.

Claim 15 is objected to because of the recitation of species as plural.

Claim 15 has been amended accordingly.

Claims 13, 23, 60 and 61 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13 and 23 are canceled. Applicants maintain the right to pursue the claims in a continuation application.

The examiner objects to claim 60, lines 1-2, because the limitation "wherein said progeny plant cell" lacks proper antecedent basis within the claim.

Claim 60 has been amended to provide proper antecedent basis.

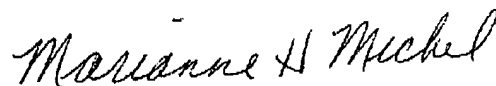
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The Examiner states that Claims 13 and 23 remain rejected and claims 56, 58 and 60 are rejected under 35 USC 112, first paragraph as failing to comply with the written description requirement and the enablement requirement.

Applicants traverse the rejections. However, Claims 13 and 23 have been canceled and Claims 56, 58 and 60 have been amended as suggested by the Examiner to expedite prosecution. Applicants maintain the right to file a continuation application to pursue further arguments regarding the canceled claims.

In view of the above comments and amendments, withdrawal of the outstanding rejections and allowance of the remaining claims is respectfully requested.

Respectfully submitted,



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